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P-1490  
*Petition for Rulemaking*

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October 3, 2006

PHMSA-2006-26190-1

Mr. Robert A. McGuire Associate Administrator  
Office of Hazardous Materials Standards  
Pipeline and Hazardous Materials Safety Administration  
Attention: PHH-10  
U.S. Department of Transportation  
400 Seventh Street SW  
Washington, D.C. 20590-0001

RE: Request for change in the regulations

Dear Mr. McGuire:

Definition of Problem

In HM-215E, PHMSA proposed and adopted a requirement in § 172.202(a) (6) for shippers to describe the types of packages being used to transport hazardous materials by all modes of transportation. This requirement will become mandatory on October 1, 2007. The final rule did not address the impact of the new requirement on the NOPIC requirements in § 175.33.

In HM-228, PHMSA proposed to include all of the existing requirements to shipping papers (existing § 175.33), their retention for 375 days (existing § 175.30 (a) (2), and the notification to pilot-in-command (existing § 175.33) into one new, consolidated section (proposed § 175.33). The NPRM made no substantive amendments to the requirements. The final rule adopted § 175.33 as proposed so that section 175.33(a) (1) (i) will still read in part "any additional description requirements provided in §§ 172.202 and 172.203 must be shown on the NOPIC.

FedEx Express made comments to HM-228 which stated in part "FedEx Express does not believe it is RSPA's intent to require a description of the outer package on the pilot-in-command. This provides no safety benefit and indeed could only keep emergency response personnel from reviewing pertinent information". PHMSA stated in the final rule that "We did not propose any revision to the requirements related to shipping papers or the preparation and delivery of a NOPIC. Therefore, the comments provided (from FedEx Express and others) are beyond the scope of this rulemaking".

FedEx Express, for the reasons stated above, continues to believe it is not necessary to include information about the type of packages on the NOPIC and request that PHMSA amend section 175.33(a) (1) (i) to exclude information and a requirement for the description of the type of package be on the NOPIC. Neither safety nor security demand that this information appear on the NOPIC. Having this information on the NOPIC will serve no purpose and not enhance safety. To the contrary, this will only impede safety as this entry will only keep emergency responders from reviewing the important information. The requirement is not consistent with the corresponding International Civil Aviation Organization (ICAO) technical instructions. ICAO does not require the NOPIC to include information about the type of packages used to transport hazardous materials.

In addition, this will only cause carriers and shippers who provide NOPIC information to implement costly enhancements to data bases and forms. Employees will spend significant time entering unessential information on the type of package into the computer/form.

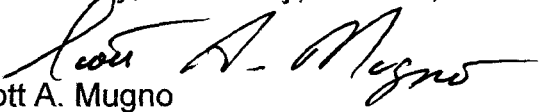
#### Recommended Solution

FedEx Express requests, therefore, that PHMSA amend § 175.33 (a) (1) (i) so that a carrier need not include a description of the type of package on the NOPIC. To accomplish this requested change, we suggest that the amended § 175.33 (a) (1) (i) read as follows (suggested amendments in bold).

"Section 172.101 of this subchapter, any additional description requirements provided in §§ 172.202 (**except those concerning the type of packages**) and 172.203 of this subchapter must also be shown in the notification".

FedEx Express appreciates the opportunity to comment on this recommended change in the regulations. If you should have any questions concerning these comments, please contact me or David Littlejohn, Dangerous Goods Technical Advisor, at (901) 434-9567.

Think Safety, Act Safely, Be Safe,

  
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Corporate Safety, Health and Fire Prevention  
FedEx Express